

1. THE HONORABLE JAMAL N. WHITEHEAD
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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

7. MB MARINE, LLC, an Alaska limited liability
8. company, the vessel GOLDEN EAGLE, O.N.
9. 954681,

10. Plaintiffs,

11. v.

12. WIEHLE INDUSTRIES, INC.,

13. Defendant.

In Admiralty

Case No. 2:23-cv-00513-JNW

**[PROPOSED] PRETRIAL
ORDER**

14. Pursuant to LCR 16(h), the parties hereby submit their pretrial statement:

JURISDICTION

15. This matter involves a complaint requesting removal of a maritime lien, a
16. counterclaim for damages by defendant and a counter/counterclaim for damages by
17. plaintiff. It is an admiralty and maritime claim within the meaning of Fed. R. Civ. P. 9(h).
18. Jurisdiction is properly invoked pursuant to 28 U.S.C. §1333.
19.
20.

CLAIMS AND DEFENSES

21. The Plaintiff will pursue at trial the following claims:

22. 1. Plaintiff intends to pursue its claim against Defendant for removal of a maritime
23. lien and damages arising from the need to repaint its vessel.
24.
25. 2. Plaintiff intends to pursue its claim against Defendant for attorney's fees and costs.
26. 3. Plaintiff will further seek pre-judgment and post-judgment interest.

1. The Defendant will pursue at trial the following affirmative defenses and claims:

2. 1. Affirmative Defense One: Scope of Contract – The scope of the contract agreed
3. upon between Plaintiff MB Marine, LLC et al (herein “Plaintiff” or “MB Marine”) and this
4. Defendant was limited to certain stain and finish work and fair and paint work in a limited
5. amount of time to prepare the M/Y GOLDEN EAGLE to embark upon charters in Alaska,
6. which obligation(s) do not invoke the warranty of workmanlike performance.

7. 2. Claim for Relief One: Breach of Contract – Plaintiff breached the oral contract
8. between the parties by its failure to pay for services rendered.

9. 3. Claim for Relief Two: Breach of the Implied Covenant of Good Faith and Fair
10. Dealing – Plaintiff’s conduct prevented Defendant from receiving the benefits of the oral
11. contract between the parties, was inconsistent with the parties’ reasonable expectations
12. under the contract, and damaged Defendant.

13. 4. Claim for Relief Three: Promissory Estoppel – In the absence of a contract,
14. Defendant justifiably relied on Plaintiff’s promise to pay for services rendered and suffered
15. damages due to such reliance.

16. 5. Claim for Relief Four: Quantum Meruit – In the absence of a contract, Defendant
17. performed services for Plaintiff in good faith and reasonably expected to receive
18. compensation for such services, of which Plaintiff accepted the benefit and subsequently
19. refused to compensate Defendant.

20. 6. Attorney’s fees and costs.

21. 7. Pre- and post-judgment interest.

22. **ADMITTED FACTS**

23. 1. During the winter of 2022 plaintiff brought its vessel GOLDEN EAGLE into the
24. Stabbert Marine an industrial shipyard to have a new pilot house assembly constructed and
25.

1. installed on the vessel. Stabbert contacted Wiehle Industries (defendant herein) and
2. arranged for certain trim and stain work to be done on the inside of the pilot house.
3.

4. 2. After a visit aboard the vessel by Wiehle employees they performed the interior
5. stain and finish work and billed \$21,105.74 for the time and materials used in performing
6. this work.

7. 3. In addition to the interior and stain work plaintiffs requested Wiehle paint the newly
8. installed house structure.

9. 4. Wiehle did paint the exterior of the house structure. In total Wiehle billed
10. \$25,347.50 for the painting work on the exterior of the house structure.

11. 5. Plaintiff declined to pay the billed amount for the interior stain work and also
12. declined to pay for the paint work on the exterior of the house.

13. 6. On April 20, 2022 defendants placed a maritime lien on the vessel in the amount of
14. \$46,453.24. The lien was filed on January 31, 2023.

ISSUES OF LAW

15. The parties are presently unaware of any issues of law which this Court will have
16. to resolve in deciding this matter.
17.

EXPERT WITNESSES

18. On behalf of Plaintiff: Ron Reisner will be called as a witness. Mr. Reisner will
19. testify concerning the quality of the paint job on the exterior of the house as performed by
20. Wiehle and the probable causes of the inferior quality of the paint job. Mr. Reisner will
21. testify in accordance with his expert report.
22.

OTHER WITNESSES

23. On behalf of Plaintiff: Keegan McCarthy will be called as a witness. He will testify
24. as to conversations with Wiehle about the estimate for the stain work and will further testify
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26.

1. concerning the quality of the paint work on the exterior of the house. Mr. McCarthy will
 2. further testify as to the cost incurred in re-doing the paint job on the exterior of the house.
 3.

4. On behalf of Defendant: Gabe Wieghe will be called as a witness. He will testify as
 5. to the oral contract between the parties, the work Defendant did on behalf of the Plaintiff,
 6. and the damages Defendant suffered due to Plaintiff's conduct.

7. EXHIBITS

8. As this is a bench trial, Plaintiff does not intend to present any of these exhibits in
 9. electronic format to any jurors.

Plaintiff's Exhibits					
Ex. #	Description	Authenticity	Admissibility	Objection	Admitted
#1	Invoices received from Wieghe Industries	Stipulated	Stipulated		x
#2	Email to Kale regarding stain work	Stipulated	Stipulated		x
#3	Photographs of finished job on top house	Stipulated	Stipulated		x
#4	Emails between Keegan McCarthy and Wieghe Industries	Stipulated	Stipulated		x
#5	Documents regarding notification of lien to First National Bank of Alaska	Stipulated	Stipulated		x
#6	Documents regarding Notice of Lien to J. L. Holloway, LLC	Stipulated	Stipulated		x
#7	Emails from Isaak Hurst to Keegan McCarthy regarding lien	Stipulated	Stipulated		x
#8	CV for Ron Reinser	Stipulated	Disputed	MIL	x

1.	#9	March 29, 2024 report from Ron Reinser	Stipulated	Disputed	MIL	x
2.	#10	Bond in Lieu of Vessel Arrest	Stipulated	Stipulated		x
3.	#11	Receipt	Disputed	Disputed	MIL	x

4. Because this is a bench trial, Defendant does not intend to present any exhibits to
 5. jurors in an electronic format.

Defendant's Exhibits					
Ex. #	Description	Authenticity	Admissibility	Objection	Admitted
#A-1	Emails from Defendant to Plaintiff requesting payment	Stipulated	Stipulated		x
#B-2	Voicemail Gabe Wiehle left for Keegan McCarthy	Stipulated	Stipulated		x

12. The Parties' Objection Code:

E	Exhibit is objectionable because it constitutes attempted expert testimony from a person who was not designated as an expert (Fed. R. Civ. P. 26)
F	Lack of foundation
MIL	Subject of Motion in Limine

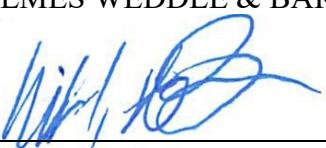
17. In the Authenticity and Admissibility columns, indicate "Stipulated" or "Disputed".
 18. If "Disputed", identify the objection in the Objection column. An objection based on a Fed.
 19. R. Evid. should reference the rule number; additional objections should be referenced by a
 20. code that the parties include with the exhibit list. The "Admitted" column is for use by the
 21. Court.

ACTION BY THE COURT

23. (a) This case is scheduled for trial without a jury on September 16, 2024, at 9:00 a.m.

1. (b) Trial briefs and proposed findings of fact and conclusions of law have been
2. submitted to the Court.
3. (c) Plaintiff's expert, Ron Reisner, may testify via Zoom under Fed. R. Civ. P. 43.
4.

5. This order has been approved by the parties as evidenced by the signatures of their counsel.
6. This order shall control the subsequent course of the action unless modified by a
7. subsequent order. This order shall not be amended except by order of the court pursuant to
8. agreement of the parties or to prevent manifest injustice.
9.

10. DATED this 13th day of September, 2024.
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12.
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14. 
15. Jamal N. Whitehead
16. United States District Judge
17.
18. Form Approved By:
19. HOLMES WEDDLE & BARCOTT, P.C.
20. 
21. Michael A. Barcott, WSBA #13317
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27. Attorneys for Plaintiff

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2.
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4. R. Isaak Hurst, Esq.
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hurst@maritime.law

7. **CERTIFICATE OF SERVICE**

8. I hereby certify that on August 26, 2024, I electronically filed a copy of the
9. foregoing document with the Court's CM/ECF system, which electronically notifies and
10. serves via E-Service the following parties:

11. Michael A. Barcott
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20. Respectfully submitted,
ATTORNEY FOR WIEHL INDUSTRIES, INC.